

(b) *Tribal lands.* Lands held in trust by the United States for an Indian tribe, lands owned by a tribe with Federal restrictions against alienation and any other land owned by an Indian tribe may only be conveyed where specific statutory authority exists and then only with the approval of the Secretary unless the Act of Congress authorizing sale provides that approval is unnecessary. (See 25 U.S.C. 177.)

§ 152.23 Applications for sale, exchange or gift.

Applications for the sale, exchange or gift of trust or restricted land shall be filed in the form approved by the Secretary with the agency having immediate jurisdiction over the land. Applications may be approved if, after careful examination of the circumstances in each case, the transaction appears to be clearly justified in the light of the long-range best interest of the owner or owners or as under conditions set out in § 152.25(d).

§ 152.24 Appraisal.

Except as otherwise provided by the Secretary, an appraisal shall be made indicating the fair market value prior to making or approving a sale, exchange, or other transfer of title of trust or restricted land.

§ 152.25 Negotiated sales, gifts and exchanges of trust or restricted lands.

Those sales, exchanges, and gifts of trust or restricted lands specifically described in the following paragraphs (a), (b), (c), and (d) of this section may be negotiated; all other sales shall be by advertised sale, except as may be otherwise provided by the Secretary.

(a) *Consideration not less than the appraised fair market value.* Indian owners may, with the approval of the Secretary, negotiate a sale of and sell trust or restricted land for not less than the appraised fair market value:

(1) When the sale is to the United States, States, or political subdivisions thereof, or such other sale as may be for a public purpose;

(2) When the sale is to the tribe or another Indian; or

(3) When the Secretary determines it is impractical to advertise.

(b) *Exchange at appraised fair market value.* With the approval of the Secretary, Indian owners may exchange trust or restricted land, or a combination of such land and other things of value, for other lands or combinations of land and other things of value. The value of the consideration received by the Indian in the exchange must be at least substantially equal to the appraised fair market value of the consideration given by him.

(c) *Sale to coowners.* With the approval of the Secretary, Indian owners may negotiate a sale of and sell trust or restricted land to a coowner of that land. The consideration may be less than the appraised fair market value, if in the opinion of the Secretary there is a special relationship between the coowners or special circumstances exist.

(d) *Gifts and conveyances for less than the appraised fair market value.* With the approval of the Secretary, Indian owners may convey trust or restricted land, for less than the appraised fair market value or for no consideration when the prospective grantee is the owner's spouse, brother, sister, lineal ancestor of Indian blood or lineal descendant, or when some other special relationship exists between the grantor and grantee or special circumstances exist that in the opinion of the Secretary warrant the approval of the conveyance.

§ 152.26 Advertisement.

(a) Upon approval of an application for an advertised sale, notice of the sale will be published not less than 30 days prior to the date fixed for the sale unless for good cause a shorter period is authorized by the Secretary.

(b) The notice of sale will include:

(1) Terms, conditions, place, date, hour, and methods of sale, including explanation of auction procedure as set out in § 152.27(b)(2) if applicable;

(2) Where and how bids shall be submitted;

(3) A statement warning all bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders or potential bidders; and

(4) Description of tracts, all reservations to which title will be subject and any restrictions and encumbrances of

record with the Bureau of Indian Affairs and any other information that may improve sale prospects.

§ 152.27 Procedure of sale.

Advertised sales shall be by sealed bids except as otherwise provided herein.

(a)(1) Bids, conforming to the requirements set out in the advertisement of sale, along with a certified check, cashier's check, money order, or U.S. Treasury check, payable to the Bureau of Indian Affairs, for not less than 10 percent of the amount of the bid, must be enclosed in a sealed envelope marked as prescribed in the notice of sale. A cash deposit may be submitted in lieu of the above-specified negotiable instruments at the bidder's risk. Tribes submitting bids pursuant to this paragraph may guarantee the required 10 percent deposit by an appropriate resolution;

(2) The sealed envelopes containing the bids will be publicly opened at the time fixed for sale. The bids will be announced and will be appropriately recorded.

(b) The policy of the Secretary recognizes that in many instances a tribe or a member thereof has a valid interest in acquiring trust or restricted lands offered for sale.

(1) With the consent of the owner and when the notice of sale so states, the tribe or members of such tribe shall have the right to meet the high bid.

(2) Provided the tribe is not the high bidder and when one or more acceptable sealed bids are received and when so stated in the notice of sale, an oral auction may be held following the bid opening. Bidding in the auction will be limited to the tribe, and to those who submitted sealed bids at 75 percent or more of the appraised value of the land being auctioned. At the conclusion of the auction the highest bidder must increase his deposit to not less than 10 percent of his auction bid.

§ 152.28 Action at close of bidding.

(a) The officer in charge of the sale shall publicly announce the apparent highest acceptable bid. The deposits submitted by the unsuccessful bidders shall be returned immediately. The deposit submitted by the apparent suc-

cessful bidder shall be held in a special account.

(b) If the highest bid received at an advertised sale is less than the appraised fair market value of the land, the Secretary with the consent of the owner may accept that bid if the amount bid approximates said appraised fair market value and in the Secretary's judgment is the highest price that may be realized in the circumstances.

(c) The Secretary shall award the bid and notify the apparent successful bidder that the remainder of the purchase price must be submitted within 30 days.

(1) Upon a showing of cause the Secretary may, in his discretion, extend the time of payment of the balance due.

(2) If the remainder of the purchase price is not paid within the time allowed, the bid will be rejected and the apparent successful bidder's 10 percent deposit will be forfeited to the landowner's use.

(d) The issuance of the patent or delivery of a deed to the purchaser will not be authorized until the balance of the purchase price has been paid, except that the fee patent may be ordered in cases where the purchaser is obtaining a loan from an agency of the Federal Government and such agency has given the Secretary a commitment that the balance of the purchase price will be paid when the fee patent is issued.

§ 152.29 Rejection of bids; disapproval of sale.

The Secretary reserves the right to reject any and all bids before the award, after the award, or at any time prior to the issuance of a patent or delivery of a deed, when he shall have determined such rejection to be in the best interests of the Indian owner.

§ 152.30 Bidding by employees.

Except as authorized by the provisions of part 140 of this chapter, no person employed in Indian Affairs shall directly or indirectly bid, make, or prepare any bid, or assist any bidder in preparing his bid. Sales between Indians, either of whom is an employee of the U.S. Government, are governed by